

REMARKS

This Amendment is in response to the Office Action of December 30, 2005. Claims 1-8 and 29-51 were pending in this application. Previously, original claims 9-28 were cancelled in view of a restriction requirement. By this Amendment, claims 1-8, 29-36, 39-41, 48 and 49 have been canceled without prejudice. Claim 42 has been amended to more clearly recite the present invention. New claims 52-62 are being presented for consideration. Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Claims 37-38 and 42-44, 50 and 51 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,245,089 to Daniel et al. ("the Daniel patent"). With respect to independent claims 37 and 42, it is noted that the presently claimed invention requires the guide wire to extend through the inlet opening of the circumferential member and includes structure which maintains the guide wire substantially centered when the cage is placed in the expanded position. The Examiner has taken the position that structure for centering the guide wire is present in the Daniels device. The Examiner states the following at page 5 of the Office Action to support his position:

With respect claims 37 and 42, Applicant argues that Daniel et al tails (358,360) do not help to center guide wire (346) relative to frame portion (356). This is simply not convincing due to the tails (358,360) are attached to wire (346) at attachment region (362) by soldering, welding or brazing adhesive (col. 15, lines 38-41). Therefore, it would maintain the wire (346) **substantially** centered the frame portion (356) when the frame portion is in the expanded position.

Apparently, the Examiner has taken the position that the guide wire (346) is centered in the frame portion (356) merely because the tails (358,360) are attached to the wire (346) at attachment region (362) by soldering, welding or brazing, the wire (362). Applicants respectfully point out that the mere attachment of the tails to the attachment region does not result in a structure which keeps the guide wire substantially centered in the frame. Rather, the embodiment of Figure 21B in the Daniel patent, which the Examiner relies on in rejecting these claims, allows the wire (346) to freely "float" within the hoop-shaped portion (356) of the frame (354). Reference is made to Column 15, lines 46-53 of the Daniel patent which read as follows:

By providing tails 358 and 360, frame 354 is directly connected to wire 346. However, tails 358 and 360 are provided so that the point of attachment of frame 354 to wire 346 is located several millimeters proximal of hoop-shaped portion 356. This provides some additional structural integrity to frame 354, **but still allows frame 354 to substantially float about wire 346 in the region of hoop-shaped frame portion 356.** (Emphasis added)

This passage from the Daniels patent confirms that this structure allows the guide wire to move freely within the opening defined by the frame portion, i.e. the guide wire is capable of floating or moving to various positions within the opening of the frame. Therefore, while these tails 358 and 360 may provide some structural integrity to the frame, they certainly do not maintain the wire 346 centered relative to the frame opening. Rather, in this embodiment, along with the embodiment of Figure 21A of the Daniel patent, the wire 346 substantially floats thus moving independently to any position within the hoop-shaped frame. Thus, these embodiments do not, and cannot, maintain the wire centered in the hoop-shaped frame.

The Daniel patent, in fact, distinguishes the "free floating" embodiments of Figures 21A and 21 B from a "fixed wire" embodiment shown in Figure 21C. Reference is made to Column 15, lines 55- 64 of the Daniel patent which reads as follows:

Protection device 366 is similar to protection devices 340 and 352 shown in FIGS. 21A and 21B, and similar items are similarly numbered. However, device 366 includes hoop-shaped frame 368. Frame 368 is similar to frame 342 shown in FIG. 21A. **However, unlike frame 342, hoop 368 does not allow wire 346 to float freely therein. Instead, hoop 368 is directly attached to wire 346 at attachment point 370. This causes hoop-shaped frame 368 and filter 344 to reside eccentrically about wire 346.** (Emphasis added)

Therefore, this statement in the Daniel patent fully supports Applicants' position that the free floating embodiment of Figure 21B does not maintain the guide wire centered in the hoop of the frame in any manner. Rather, the embodiment of Figure 21C is the only embodiment which fixes the guide wire (346) to a specific position within the hoop-shaped frame (368). In Figure 21C, the wire is fixed eccentrically to the frame. Therefore, Applicants submit that the Daniel patent actually teaches away from a structure which maintains a guide wire centered within a hoop-shaped frame. For at least these reasons, the Daniel patent lacks the specific structure recited in

the above-identified claims. Applicants respectfully request the Examiner to withdraw the Daniel patent as an anticipatory reference to these claims.

Claims 29-41, 45-47 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 6,660,021 to Palmer et al (the "Palmer patent") in view of the Daniel patent. As addressed above, Applicants submit that the Daniels patent fails to show any structure which maintains the guide wire substantially centered through the circumferential member. The structure shown in Figure 32 of the Palmer patent does not show the use of a guide wire extending through the inlet opening of the circumferential member, as admitted by the Examiner in Paragraph 3 of the Office Action. Since the Palmer patent fails to teach the use of a guide wire through the inlet opening of the frame, it also fails to disclose a guide wire centered within that inlet opening. Independent claim 37 requires the guide wire to be substantially centered through the circumferential member when placed in the expanded position. Since the Palmer patent, nor the embodiment of Figure 21B of the Daniel patent relied on by the Examiner, disclose or teach such a structure, the combination of these two references cannot achieve the particular structure recited in claim 37. With respect to dependent claims 45-47, independent claim 42 requires the proximal strut to maintain the guide wire substantially centered through the inlet of the circumferential member. As stated above, such structure is not shown in the Palmer or Daniels patents. Accordingly the combination of these patents fails to achieve the structure recited in claims 42 and 45-47. Accordingly, Applicants respectfully request the Examiner to withdraw the obviousness rejection directed to claims 37-41, 45-47.

The newly presented claims recite structure which is neither shown nor suggested in the cited art. It is submitted that these new claims are allowable over the prior art.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.